

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 166**

Citations Affected: IC 6-1.1-21.8-4; IC 6-3.5; IC 36-1-8-5.1.

Synopsis: Distribution of local option income taxes. Extends the rainy day fund loan repayment schedule for Porter County school corporations and public libraries by one year. Changes the method for computing the amount distributed to counties from money received by the department of state revenue from a county adjusted gross income tax, county option income tax, or county economic development income tax. Provides for a transition to the new method for counties in the first several years that a county income tax is initially imposed in the county. Requires a supplemental distribution in excess of the certified distribution to be deposited in a civil taxing unit's rainy day fund. Repeals: (1) provisions concerning the keeping of three and six month balances in a county's tax account with the state; and (2) a provision requiring a report on account balances for the county economic development income tax in February of each year. **(This conference committee report: (1) changes, for purposes of determining the maximum allowable levy for a county adopting a county adjusted gross income tax after 2002, the formula for determining its base year revenue; (2) requires the department of state revenue to distribute an excess balance in a county's special account as a supplemental distribution; (3) allows revenue from a rate increase allowed under HEA 1155, which was enacted in the 2003 session of the general assembly, to be received 10 months after revenues from the rate increase are initially collected; (4) extends the loan repayment provisions applicable to Porter County school corporations to public libraries in Porter County; and (5) corrects several punctuation errors.)**

Effective: Upon passage; June 1, 2003; July 1, 2003.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 166 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-1.1-18.5-5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 5. (a) As used in this
- 4 section, "base year" for a civil taxing unit means the most recent
- 5 calendar year:
- 6 (1) in which the civil taxing unit is located in an adopting county,
- 7 as determined under section 4 of this chapter; and
- 8 (2) that is immediately preceded by a calendar year in which the
- 9 civil taxing unit either:
- 10 (A) was not located in an adopting county, as determined under
- 11 section 4 of this chapter; or
- 12 (B) did not impose an ad valorem property tax levy.
- 13 If the civil taxing unit was located in an adopting county in calendar
- 14 year 1979, as determined under section 4 of this chapter, the civil
- 15 taxing unit's base year is calendar year 1979 or the year determined
- 16 above, whichever is later.
- 17 (b) **As used in this section, "initial certified distribution" means**
- 18 **the amount of certified shares received by a civil taxing unit in the**
- 19 **year determined under subsection (e).**
- 20 (c) If the county adjusted gross income tax was not in effect on
- 21 January 1 of the calendar year immediately preceding the ensuing

calendar year in the county in which a particular civil taxing unit is located, then the civil taxing unit's base year certified share is the amount of certified shares to be received by the civil taxing unit during its base year.

(c) (d) If the county adjusted gross income tax was in effect on January 1 of the calendar year immediately preceding the ensuing calendar year in the county in which a particular civil taxing unit is located, then the civil taxing unit's base year certified share is the amount of ~~certified shares received by the civil taxing unit in its base year~~ **unit's initial certified distribution** multiplied by a fraction:

(1) The numerator of the fraction equals the remainder of the county adjusted gross income tax rate of the county in which the civil taxing unit is located and that is imposed on January 1 of the ensuing calendar year minus one quarter of one percent (1/4%).

(2) The denominator of the fraction equals the remainder of the county adjusted gross income tax rate of the county in which the civil taxing unit is located and that is imposed on January 1 of the civil taxing unit's base year minus one quarter of one percent (1/4%).

(e) **This subsection applies to a civil taxing unit that is located in a county that:**

(1) **adopts the county adjusted gross income tax after December 31, 2002; and**

(2) **had a county adjusted gross income tax in effect on January 1 of the calendar year immediately preceding the ensuing calendar year.**

Until the department of state revenue, after reviewing the recommendation of the budget agency, notifies the department of local government finance that a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) has occurred for the calendar year, the initial certified distribution to be used under subsection (e) for the civil taxing unit shall be the amount of the certified shares certified for the civil taxing unit in the most current calendar year preceding the ensuing calendar year. For the calendar year for which a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) has occurred and each subsequent calendar year, the initial certified distribution to be used under subsection (e) for the civil taxing unit is the amount of certified shares certified for the civil taxing unit in the calendar year in which a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) initially occurred for the civil taxing unit. The department of state revenue, after reviewing the recommendation of the budget agency, shall provide the notice to the department of local government finance as required under this subsection.

SECTION 2. IC 6-1.1-21.8-4, AS ADDED BY P.L.157-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States

Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which data is available as of the date that the unit applies for a loan under this chapter. **In the case of a qualified taxing unit that is not a school corporation or a public library (as defined in IC 20-14-1-2), a loan must be repaid not later than ten (10) years after the date on which the loan was made. In the case of a qualified taxing unit that is a school corporation or a public library (as defined in IC 20-14-1-2), a loan must be repaid not later than eleven (11) years after the date on which the loan was made. A school corporation or a public library (as defined in IC 20-14-1-2) is not required to begin making payments to repay a loan until after June 30, 2004.** The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars (\$28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

(1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; or

(2) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

(1) The county adjusted gross income tax under IC 6-3.5-1.1.

(2) The county option income tax under IC 6-3.5-6.

(3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

SECTION 3. IC 6-3.5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in

the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the department, after reviewing the recommendation of the state budget agency, ~~estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.~~ **determines has been:**

(1) **received from that county for a taxable year ending before the calendar year in which the determination is made; and**
 (2) **reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;**
as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in the state fiscal year.

(b) ~~Before July~~ **August 2** of each calendar year, the department, after reviewing the recommendation of the ~~state~~ budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the amount of county adjusted gross income tax revenue that ~~will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year.~~ **determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.** The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified ~~may shall~~ be adjusted under ~~subsection~~ **subsections (c), or (d), (e), (f), and (g).** **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

(c) ~~the department may~~ certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 8 of this chapter.

~~(d)~~ **(c)** The department ~~may shall~~ certify an amount less than the estimated twelve (12) month revenue collection **amount determined under subsection (b)** if the department, after reviewing the recommendation of the ~~state~~ budget agency, determines that a ~~part of those collections need to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year.~~ **the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.**

(d) The department, after reviewing the recommendation of the

1 budget agency, shall adjust the certified distribution of a county to
 2 correct for any clerical or mathematical errors made in any
 3 previous certification under this section. The department, after
 4 reviewing the recommendation of the budget agency, may reduce
 5 the amount of the certified distribution over several calendar years
 6 so that any adjustment under this subsection is offset over several
 7 years rather than in one (1) lump sum.

8 (e) The department, after reviewing the recommendation of the
 9 budget agency, shall adjust the certified distribution of a county to
 10 provide the county with the distribution required under section
 11 10(b) of this chapter.

12 (f) This subsection applies to a county that initially imposes a tax
 13 under this chapter in the same calendar year in which the
 14 department makes a certification under this section. The
 15 department, after reviewing the recommendation of the budget
 16 agency, shall adjust the certified distribution of a county to provide
 17 for a distribution in the immediately following calendar year and
 18 in each calendar year thereafter. The department shall provide for
 19 a full transition to certification of distributions as provided in
 20 subsection (a)(1) through (a)(2) in the manner provided in
 21 subsection (c).

22 (g) The department, after reviewing the recommendation of the
 23 budget agency, shall adjust the certified distribution of a county to
 24 provide the county with the distribution required under section 3.3
 25 of this chapter beginning not later than the tenth month after the
 26 month in which additional revenue from the tax authorized under
 27 section 3.3 of this chapter is initially collected.

28 SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY HEA 1155,
 29 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JUNE 1, 2003]: Sec. 11. (a) Except for:

31 (1) revenue that must be used to pay the costs of operating a jail
 32 and juvenile detention center under section 2.5(d) of this chapter;

33 (2) revenue that must be used to pay the costs of:

34 (A) financing, constructing, acquiring, improving, renovating, or
 35 equipping facilities and buildings;

36 (B) debt service on bonds; or

37 (C) lease rentals;

38 under section 2.8 of this chapter;

39 (3) revenue that must be used to pay the costs of construction,
 40 improvement, renovation, or remodeling of a jail and related
 41 buildings and parking structures under section 2.7, 2.9, or 3.3 of
 42 this chapter;

43 (4) revenue that must be used to pay the costs of operating and
 44 maintaining a jail and justice center under section 3.5(d) of this
 45 chapter; or

46 (5) revenue that must be used to pay the costs of constructing,
 47 acquiring, improving, renovating, or equipping a county
 48 courthouse under section 3.6 of this chapter;

49 the certified distribution received by a county treasurer shall, in the
 50 manner prescribed in this section, be allocated, distributed, and used
 51 by the civil taxing units and school corporations of the county as

certified shares and property tax replacement credits.

(b) Before ~~August 2~~ **August 10** of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received **by two (2) years**. The percentages are set forth in the following table:

COUNTY	PROPERTY TAX	
	REPLACEMENT CREDITS	CERTIFIED SHARES
ADJUSTED GROSS INCOME TAX RATE		
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 5. IC 6-3.5-1.1-21, AS AMENDED BY P.L.178-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21. Before ~~July~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's adjusted gross income tax account as of the end of the preceding year: cutoff date specified by the budget agency.~~

(2) ~~The required six (6) month balance; or three (3) month balance if the county has adopted an ordinance under section 9.5 of this chapter before the end of the preceding year.~~

SECTION 6. IC 6-3.5-1.1-21.1, AS ADDED BY P.L.178-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21.1. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account in excess of the required six (6) or three (3) month balance; amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department ~~may~~ **shall** make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated and, **subject to subsection (d)**, used in the same manner as certified distributions.

(c) A determination under this section must be made before ~~July~~ **October 2**.

(d) This subsection applies to that part of a distribution made under this section that is allocated and available for use in the same manner as certified shares. The civil taxing unit receiving the money shall deposit the money in the civil taxing unit's rainy day fund established under IC 36-1-8-5.1.

SECTION 7. IC 6-3.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 2. (a) A county income tax council is established for each county in Indiana. The membership of each county's county income tax council consists of the fiscal body of the county and the fiscal body of each city or town that lies either partially or entirely within that county.

(b) Using procedures described in this chapter, a county income tax council may adopt ordinances to:

- (1) impose the county option income tax in its county;
- (2) subject to section 12 of this chapter, rescind the county option income tax in its county;
- (3) increase the county option income tax rate for the county;
- (4) freeze the county option income tax rate for its county;
- (5) increase the homestead credit in its county; **or**
- (6) subject to section 12.5 of this chapter, decrease the county option income tax rate for the county. **or**
- ~~(7) subject to section 17.5 of this chapter, elect to reduce the required balance in the county special account.~~

(c) An ordinance adopted in a particular year under this chapter to impose or rescind the county option income tax or to increase its tax rate is effective July 1 of that year.

SECTION 8. IC 6-3.5-6-17, AS AMENDED BY P.L.178-2002, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17. (a) ~~Except as provided in section 2.5 of this chapter,~~ Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the ~~state~~ budget agency, ~~estimates will be determines has been:~~

- ~~(1) received from that county during the twelve (12) month period beginning July 1 of the immediately preceding for a taxable year ending in a calendar year and ending June 30 of the ensuing calendar year. preceding the calendar year in which the determination is made; and~~
- ~~(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;~~

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before ~~June 16~~ **August 2** of each calendar year, the department, after reviewing the recommendation of the ~~state~~ budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the

amount of county option income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year: **determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.** The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified ~~may~~ **shall** be adjusted, ~~as necessary,~~ under ~~subsection~~ **subsections (c), or (d), and (e).** **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

(c) the department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter.

~~(d)~~ (c) The department ~~may~~ **shall** certify an amount less than the estimated twelve (12) month revenue collection **amount determined under subsection (b)** if the department, after reviewing the recommendation of the ~~state~~ budget agency, determines that ~~a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year:~~ **the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.**

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account

established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

~~(f)~~ **(g)** ~~Except as provided in section 2-5 of this chapter,~~ Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

~~(g)~~ **(h)** All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 9. IC 6-3.5-6-17.2, AS ADDED BY P.L.178-2002, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.2. Before ~~July 2~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the following:

~~(1) The balance in the county's special account as of the end of the preceding year.~~

~~(2) The required six (6) month balance or three (3) month balance, if the county has adopted an ordinance under:~~

~~(A) section 17.4 of this chapter;~~

~~(B) section 17.5 of this chapter; or~~

~~(C) section 17.6 of this chapter;~~

~~before the end of the preceding year. cutoff date set by the budget agency.~~

SECTION 10. IC 6-3.5-6-17.3, AS ADDED BY P.L.178-2002, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account** in excess of the ~~required six (6) or three (3) month balance,~~ **amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department ~~may~~ **shall** make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated ~~and used~~ in the same manner as certified distributions **for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.**

(c) A determination under this section must be made before ~~July 2-~~ **October 2.**

SECTION 11. IC 6-3.5-6-19, AS AMENDED BY P.L.90-2002, SECTION 297, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 19. (a) Except as provided in sections ~~17.6(d);~~ 18(e) and 18.5(b)(3) of this chapter, in determining the fractional share of distributive shares the civil taxing units of a county are entitled to receive under section 18 of this chapter during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(b) In determining the amount of distributive shares a civil taxing

unit is entitled to receive under section 18(g) of this chapter, the department of local government finance shall consider only the percentage of the civil taxing unit's budget that equals the ratio that the total assessed valuation that lies within the civil taxing unit and the county that has adopted the county option tax bears to the total assessed valuation that lies within the civil taxing unit.

(c) The distributive shares to be allocated and distributed under this chapter shall be treated by each civil taxing unit as additional revenue for the purpose of fixing its budget for the budget year during which the distributive shares is to be distributed to the civil taxing unit.

(d) In the case of a civil taxing unit that includes a consolidated city its fiscal body may distribute any revenue it receives under this chapter to any governmental entity located in its county except an excluded city, a township, or a school corporation.

SECTION 12. IC 6-3.5-7-10.5, AS ADDED BY P.L.178-2002, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 10.5. Before ~~July~~ **October** 2 of each year, the department shall submit a report to each county auditor indicating the following:

~~(1) The balance in the county's special account as of the end of the preceding year.~~

~~(2) The required six (6) month balance as of the end of the preceding year.~~ **cutoff date set by the budget agency.**

SECTION 13. IC 6-3.5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before ~~July~~ **August** 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the **sum of the** amount of county economic development income tax revenue that ~~will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year.~~ **the department determines has been:**

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or (d), (e), (f), and (g).** ~~The department~~

1 shall provide with the certification an informative summary of the
2 calculations used to determine the certified distribution.

3 (c) the department may certify to an adopting county an amount that
4 is greater than the estimated twelve (12) month revenue collection if
5 the department, after reviewing the recommendation of the budget
6 agency, determines that there will be a greater amount of revenue
7 available for distribution from the county's account established under
8 section 10 of this chapter.

9 (d) (c) The department ~~may~~ **shall** certify an amount less than the
10 estimated twelve (12) month revenue collection ~~amount determined~~
11 **under subsection (b)** if the department, after reviewing the
12 recommendation of the budget agency, determines that a ~~part of those~~
13 ~~collections need to be distributed during the current calendar year so~~
14 ~~that the county will receive its full certified distribution for the current~~
15 ~~calendar year: the reduced distribution is necessary to offset~~
16 ~~overpayments made in a calendar year before the calendar year of~~
17 ~~the distribution. The department, after reviewing the~~
18 ~~recommendation of the budget agency, may reduce the amount of~~
19 ~~the certified distribution over several calendar years so that any~~
20 ~~overpayments are offset over several years rather than in one (1)~~
21 ~~lump sum.~~

22 (d) After reviewing the recommendation of the budget agency,
23 the department shall adjust the certified distribution of a county to
24 correct for any clerical or mathematical errors made in any
25 previous certification under this section. The department, after
26 reviewing the recommendation of the budget agency, may reduce
27 the amount of the certified distribution over several calendar years
28 so that any adjustment under this subsection is offset over several
29 years rather than in one (1) lump sum.

30 (e) The department, after reviewing the recommendation of the
31 budget agency, shall adjust the certified distribution of a county to
32 provide the county with the distribution required under section
33 16(b) of this chapter.

34 (f) The department, after reviewing the recommendation of the
35 budget agency, shall adjust the certified distribution of a county to
36 provide the county with the amount of any tax increase imposed
37 under section 25 or 26 of this chapter to provide additional
38 homestead credits as provided in those provisions.

39 (g) This subsection applies to a county that initially imposed a
40 tax under this chapter in the same calendar year in which the
41 department makes a certification under this section. The
42 department, after reviewing the recommendation of the budget
43 agency, shall adjust the certified distribution of a county to provide
44 for a distribution in the immediately following calendar year and
45 in each calendar year thereafter. The department shall provide for
46 a full transition to certification of distributions as provided in
47 subsection (b)(1) through (b)(2) in the manner provided in
48 subsection (c).

49 SECTION 14. IC 6-3.5-7-17.3, AS ADDED BY P.L.178-2002,
50 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
51 JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation

from the budget agency, the department determines that a sufficient balance existed at the end of the preceding year that exceeded the required six (6) month balance as of the end of the preceding exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year, the department ~~may~~ shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated ~~and used~~ in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before ~~July~~ October 2.

SECTION 15. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund to receive transfers of unused and unencumbered funds under:

(1) section 5 of this chapter;

(2) IC 6-3.5-1.1-21.1;

(3) IC 6-3.5-6-17.3; and

(4) IC 6-3.5-7-17.3.

(b) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.

(c) In any fiscal year, a political subdivision may transfer **under section 5 of this chapter** not more than ten percent (10%) of the political subdivision's total budget for that fiscal year to the rainy day fund.

(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JUNE 1, 2003]: IC 6-3.5-1.1-9.5; IC 6-3.5-6-17.4; IC 6-3.5-6-17.5; IC 6-3.5-6-17.6; IC 6-3.5-7-19.

SECTION 17. **An emergency is declared for this act.**

(Reference is to ESB 166 as reprinted April 1, 2003.)

Conference Committee Report
on
Engrossed Senate Bill 166

Signed by:

Senator Kenley
Chairperson

Representative Cochran

Senator Hume

Representative Espich

Senate Conferees

House Conferees